



Acton Zoning Board of Appeal

Minutes of Meeting

August 1, 2016

Acton Town Hall

Room 9

Zoning Board of Appeal members in attendance: Jonathan Wagner, Chairman; Richard Fallon, Adam Hoffman, and Ken Kozik. Staff present: Roland Bartl, Town Planner; Kristen Guichard, Assistant Town Planner; Katelyn Huffman, Board of Appeals Secretary. Also Present: Janet Adachi, Board of Selectmen Liason, Ron Baver, Jonathan Sides, Matthew Mehler, Andrew Shlesinger, Tim Membrino, Maria Membrino, Pete Pelletier, Louis Levine, Joseph Levine, and Don Johnson.

Mr. Wagner opened the meeting on August 1, 2016 at 7:30PM

Consent

The meeting minutes for July 19, 2016 and July 20, 2016 were approved and passed unanimously.

Hearing # 16-06 Special Permit – 25 Newtown Road

Mr. Wagner opened the hearing at 7:40PM and introduced the board and applicants. Mr. Wagner disclosed that he hired the applicant to paint his house many years ago but felt that he did not hold any bias. The applicant disclosed that he hadn't even known that Mr. Wagner was on the board when applying for the application and felt that Mr. Wagner sitting on the board for the hearing was acceptable.

Matthew Mehler, the applicant from 25 Newtown Road, introduced himself. He lives in a small ranch style house and his family has outgrown it. He proposes adding a second story to the current residence. He would not alter the footprint. The upstairs would become the bedroom area and the bottom floor would be a dining room, family room, and other livable space, but no other bedrooms. He would design the house to look like a Colonial to match the spirit of the neighborhood.

Mr. Wagner stated that the Board of Health limits the house to 3 bedrooms. Mr. Mehler agreed that there would be no addition to the number of bedrooms and confirmed that the downstairs would be used for living and recreational space.

Mr. Wagner noted that he would essentially be doubling the size of the house. Mr. Mehler agreed.

Mr. Wagner asked for public comment.

Ron Baver of 7 Minuteman Road asked about the elevations of the proposed building and what the design would look like in the end. Mr. Wagner offered Mr. Baver a set of updated plans to view.

Mr. Baver asked if there would be a height cap to the building and how it would be measured. Mr. Kozik replied that the maximum height in the zoning district is 36 feet. Mr. Bartl explained how height is measured under the zoning bylaw and noted that gabled, 2-story single family homes as a rule do not reach this maximum.

Jonathan Sides of 33 Woodbury Road inquired whether or not the basis of the decision of the Board would be on the laws and rules or based off of the surrounding houses in the neighborhood. Mr. Wagner informed him that the Board would decide if the proposed addition would be detrimental to the surrounding neighborhood as required by law.

Mr. Andrew Shlesinger of 36 Newtown Road asked why a corner lot is special. Was there danger in expanding on this corner lot? Mr. Kozik explained that the subject lot is non-conforming because it does not meet the minimum frontage requirements and homes on this type of lot require special permits for additions. The special permit is not about the corner lot.

After all public comments were heard, Mr. Kozik made a motion to close the public hearing. Mr. Hoffman seconded the motion. The motion carried unanimously.

Hearing # 16-07 Special Permit – 19 Henley Road

Mr. Wagner opened the hearing for Special Permit #16-07, 19 Henley Road at 8:00 PM. The Board introduced themselves and the applicants to the audience.

Mr. Kozik inquired whether this was for a special permit amendment or an entirely new special permit. Tim Membrino, one of the applicants, replied that it was for whichever the Board found appropriate.

Peter Pelletier, the General Contractor, described the work already completed under the existing special permit and explained the reasons for the additional deck request now before the Board. In summary, new building code regulations require that the porch door must be in a different location where the homeowners now would like to add a deck.

Mr. Wagner asked what the difference is between this permit and the previous permit. Mr. Pelletier replied that the only difference was the addition of a deck.

Mr. Hoffman asked if it was only a deck or a third garage bay. Mr. Pelletier confirmed that it would just be a deck.

Mr. Kozik asked how much square footage in total of expansion there would be. Ms. Guichard replied that it would total 47.36% in expansion including the previous request.

After all concerns were heard Mr. Kozik made a motion to close the public hearing. Mr. Hoffman seconded the motion. The motion carried unanimously.

The Board decided this hearing would be heard as a new special permit application rather than an amendment.

Planning Department staff noted they suggested it be heard as an amendment because the work on the house previously permitted had not been completed, and this could be viewed as an adjustment to the original request. Staff also noted that the only difference in viewing this application as an amendment or new special permit was the application cost to the applicant, the process would be the same because a public hearing was already held. Planning staff also had prepared a draft decision in the event that the Board should approve the request as an amendment of the previously issued special permit. However, the Board dismissed the draft.

Hearing # 16-05 Public Hearing Continuation – 248 High Street

Mr. Wagner opened the hearing for the Public Hearing Continuation of #16-05 248 High Street, at 8:30 PM. The Board introduced themselves and the applicant, Mr. Joseph Levine, to the audience. The Board then went through the memos outlined in their packets.

Mr. Wagner asked what had been done between this hearing and the previous hearing.

Mr. Louis Levine, attorney for the applicant, informed the Board that they worked to close out any outstanding issues. They further consulted with the Engineering Department, the Fire Chief, the Water Department, and the Tree Warden. All are either satisfied with the plan as shown or required minor changes that can be made easily. With respect to fire safety, sprinklers would be used in certain units to meet all safety requirements. A fire truck will be able to turn around.

Mr. Wagner asked how the new plans and the old plans differed. Mr. Levine informed him that the proposed house numbering had changed. Mr. Wagner asked if there were any other major changes. Mr. Levine replied no.

Mr. Kozik asked if there had been anything missed in the proposed plan. Mr. Levine replied that the plans were very close to complete.

Mr. Kozik asked Planning Department staff whether they felt it was complete enough to continue. Both Planning Department staff members agreed that it was.

Don Johnson of 1 Cindy Lane let the Board know that he is comfortable working with Mr. Levine regarding the landscaping of the proposed project.

Mr. Kozik made a motion to continue the hearing to Wednesday, August 10, 2016 at 7:30PM at Acton Town Hall. Mr. Hoffman seconded the motion. The motion carried unanimously.

Deliberations

Hearing # 16-06 Special Permit – 25 Newtown Road

- The applicant is applying for an addition on a non-conforming lot under section 8.1.5 of the Zoning Bylaw.

- The board found the application as requested meets the mandatory findings of ZBL section 10.3.5

Conditions

- Must be in compliance with most recently submitted plans and plot plans filed on July 28, 2016.

Mr. Hoffman moved to approve the Special Permit on the condition that it be in compliance with most recently submitted plans filed on July 28, 2016.

Mr. Hoffman seconded the motion.

Mr. Hoffman agreed to write the decision for this hearing.

Hearing # 16-07 Special Permit – 19 Henley Road

- The applicant is applying for an addition on a non-conforming lot under section 8.1.5 of the Zoning Bylaw.
- The board found the application as requested meet the mandatory findings of ZBL section 10.3.5

Conditions

- Must be in compliance with most recently submitted plans and plot plans filed on July 28, 2016

Mr. Hoffman moved to approve the Special Permit on the condition that it be in compliance with most recently submitted plans and plot plans filed on July 28, 2016.

Mr. Kozik agreed to write the decision for this hearing.

The motion carried unanimously.

Proposed Zoning Amendments

The Board reviewed a draft zoning proposal submitted by the Planning Department to eliminate or reduce the special permit requirement for % of additions or alterations to single family homes on non-conforming lots. Board members agreed that they were in support of this article.

After deliberations were closed Mr. Wagner requested to have a meeting with the Planning Department to discuss procedural matters and expressed that he was upset that staff prepared draft decisions for the Board's consideration.

Mr. Hoffman moved to adjourn the meeting at 9:40PM Mr. Kozik seconded the motion. The motion carried unanimously. The meeting was adjourned at 9:40pm.